

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN STORES PROPERTIES,
INC.,

Plaintiff,

v.

SPOTTS, STEVENS & MCCOY, INC.,
et al.,

Defendants.

CIVIL ACTION

NO. 05-1461

FILED

AUG 13 2009

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

ORDER

AND NOW, this 13th day of August, 2009, upon consideration of the Defendant's Motion to Dismiss (Doc. No. 39), it is hereby ORDERED as follows:

1. Defendant's Motion to Dismiss is GRANTED as to Count IV of the Amended Complaint (negligent design);
2. Defendant's Motion to Dismiss is DENIED as to Counts I and III of the Amended Complaint (breach of contract and breach of warranty).
3. Pursuant to the Court's Opinion in this case filed on this date, Plaintiff may file an Amended Complaint consistent with the Opinions.

BY THE COURT:

Joel H. Slomsky
JOEL H. SLOMSKY, J.